

REMARKS

The Examiner rejected claims 1 and 5 the only claims pending in this application, under 35 U.S.C. § 103(a) as being unpatentable over Muehlhoff (US 3,058,633) in view of Price (US 5,772,069) and Witt, Jr. (US 5,279,450).

On page 2, paragraph No. 2, the Examiner contends that the bent portion of the spout 2 extends in a direction that is generally perpendicular to the rest of the spout 2 as shown in Figs. 3 and 4 of the Muehlhoff reference. Looking at Figs. 3 and 4, it appears that the bent spout 2 (which the applicant believes is element 11 rather than 2) extends in a generally 45 degree angle with the spout. It is not believed that this could be interpreted as being generally perpendicular to the rest of the spout as set forth in claim 1. Reconsideration of this grounds of rejection is respectfully requested. Further the Examiner believes that spout 2 may be flexible as discussed in column 2, lines 10-16 of the Muehlhoff reference and accordingly could be bent so that the bent portion is 1/3 of the length of the remainder of spout 2. The cited portion of the Muehlhoff reference reads as follows:

“For example, and not by way of limitation, the spout may be formed of polyethylene, or other suitable plastic, or of natural or synthetic rubber and may be either rigid or flexible.”

The applicant is not claiming a flexible spout. Claim 1 requires a “bent pour spout extending in a direction generally perpendicular to the longitudinal axis of the bottle, and having a length less than one-third the length of the main body portion.” Certainly Muehlhoff does not describe such a bent pour spout. It is believed that it would not be obvious to one skilled in the art to bend the spout 11 in Muehlhoff to conform to the language of claim 1. Clearly, Muehlhoff

does not teach such bending.

The Examiner cites the Price reference as showing a holder 500 for a container 100 and further for the structure showing a holder 500 having a bottom corresponding with the shape of the bottom of the container 100. In this regard the Price reference shows a holder 500 having ribs 562 that have been shaped to conform to the shape of the bottom of the container cup 100. Claim 1 requires a "hollow holder means having a main body portion open at the top and closed at the bottom" (emphasis added). Witt does not show such a holder means such as described in the specification at page 5, lines 15-17 namely: "The holder 12 includes a cylindrical wall section 38 having an open top 40 and a bottom wall 42". Neither does Price show a holder having "cut-outs" as set forth in claim 1. The bottom of the Price holder does not have a bottom wall at all, so there can be no cut-outs. Further, the shaping of the bottom of cup 100 and the shaping of the bottom of holder 500 is not a hemispherical shape as required by claim 1. The Price reference does not teach a bottle nor a holder as specified in claim 1.

Finally, the Examiner cites the Witt reference as showing finger grips on a container and contends that it would be obvious to combine the finger grips of Witt with the Muehlhoff spout. There is no showing in Witt that the finger grips are provided in the dispenser 28 so apparently this reference is cited only as showing finger grips.

When a claim is rejected on the grounds of obviousness in view of several references, there must be a teaching in the references that they can be combined to reach the applicant's invention *In re: Grabiak, 769 F.2nd729, USPQ 870, (Fed. Cir. 1985)*. It appears that the Examiner is simply picking and choosing between these three references as to elements of the invention as claimed, but there is no teaching in any of these references that they could be

combined by one skilled in the art to reach the applicant's invention. All of the elements as set forth in the applicant's invention in claims 1 and 5 may be known in the art but this fact does not by itself render the invention obvious to one skilled in the art. There must be some reason why these separate references can be combined to reach the applicant's invention as set forth in claims 1 and 5.

For these reasons, it is believed that the invention as set forth in claims 1 and 5 would not be obvious to one skilled in the art and are allowable.

DATED: 12/23/05
Bozeman, Montana

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